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Two objections not always carefully distinguished are urged against the admissibility of such evidence. The first is that a confession before the grand jury is inadmissible because involuntary. *People* v. *McMahon*, 15 N. Y. 384. Generally, however, testimony of this kind involves an admission, not a confession; for the latter requires an acknowledgment of guilt. 1 Greenl. Ev. § 170. As an admission is not excluded because involuntary, the objection therefore is seldom in fact applicable. *State* v. *Broughton*, 7 Ired. 96. Nevertheless, many cases consider the testimony as an involuntary confession. According to the best authority a confession is excluded as involuntary only when it is obtained by promises or threats in regard to the case itself made by one in authority. Joy Confessions, § 1; *Hopt* v. *Utah*, 110 U. S. 574, 585. A statement under oath before the grand jury, even if a confession, is not as a rule involuntary, because it is seldom induced by such promises or threats. *Commonwealth* v. *King*, 8 Gray 501. Consequently in general, the objection that the testimony is inadmissible as an involuntary confession fails. The second objection is that the accused in violation of his constitutional privilege is obliged to furnish evidence against himself; for when he is before the grand jury he must either testify, or, by exercising his privilege not to criminate himself, furnish an admission by conduct. But according to the weight of authority the prosecution should not be allowed to prove a reliance on privilege, for otherwise the privilege is partially defeated. *National, etc., Bank* v. *Lawrence*, 77 Minn. 282. Even in jurisdictions where the exercise of the privilege can be shown, it would seem that this constitutional right is not violated by admitting the testimony given before the grand jury. For, although the accused is placed where he cannot escape the drawing of an inference from his silence, nevertheless the constitutional provision by its terms seems to apply only to direct testimony, and the accused is not forced to give direct testimony incriminating himself. Cf. *State* v. *Bartlett*, 55 Me. 200, 216.

It seems then as if legally such testimony should be received. Joy Confessions, § VIII. Its exclusion may however be supported as a rule of policy, on grounds of merciful administration. The prosecutor should not be allowed to put a man, not at the time accused, on the rack, and use at the trial what he has extorted. A reasonable rule would be to exclude testimony given before the grand jury unless the witness spoke voluntarily with the understanding that if he chose to remain silent, that fact should not be subsequently brought against him. Such a rule it seems would effect a desirable result, often reached by the courts however on erroneous grounds.

TELEPHONE AND TELEGRAPH COMPANIES AS COMMON CARRIERS. — Whatever may be the scientific distinction between the telephone and telegraph as inventions, it is well settled that the legal status of companies organized for the purpose of transmitting intelligence by their means is the same. *Attorney-General* v. *Edison Telephone Co.*, 6 Q. B. Div. 244. Both may take by eminent domain under proper legislative sanction. *Turnpike Co.* v. *News Co.*, 43 N. J. L. 381; *York Telephone Co.* v. *Keesey*, 5 Pa. Dist. Rep. 366. Both may make reasonable rules and stipulations for the conduct of their business. *Western Union Tele-*

graph Co. v. *Van Cleave*, 54 S. W. 827 (Ky.); *Pugh* v. *City, etc., Telephone Co.*, 9 Cincinnati Weekly Bul. 104. Both are subject to legislative control as to rates and regulations. *State* v. *Western Union Telegraph Co.*, 113 N. C. 213; *Hockett* v. *State*, 105 Ind. 250. In a recent South Carolina decision it is said that telephone companies are under a duty at common law to furnish facilities to the public without discrimination, and this obligation is placed upon the ground that they are in one sense of the term common carriers. *State* v. *Citizens' Telephone Co.*, 39 S. E. Rep. 257. The tendency to rest the legal status of telegraph and telephone companies upon the similarity of their undertaking to that of the common carrier is unfortunate as ignoring broad principles of law that determine the rights and duties of both callings. The common carrier is only one of a class of public servants endowed by the common law with special privileges and subject to special obligations by reason of the public interest in the proper conduct of the business undertaken. This class anciently included innkeepers, smiths, farriers, tailors, carriers, and others. See 11 HARVARD LAW REVIEW, 163. With the progress of civilization and the development of new countries the number of public employments increased. It was the province of the courts to determine what was a public occupation, and the decisions naturally varied with the conditions and interests of the localities in which they were rendered. *Lake Koen Navigation, etc., Co.* v. *Klein*, 65 Pac. Rep. 684 (Kan.). Among the undertakings that have been held to be public in this country may be mentioned the supplying of water, gas, electricity, and news, and the operating of grain-elevators, grist-mills, telegraphs, and telephones. It is characteristic of persons or corporations engaged in a public occupation that they may take by eminent domain; that they are subject to the control of the legislature in many ways unknown to ordinary business corporations; and that they must serve the public at reasonable rates and without unfair discrimination. *Olmsted* v. *Proprietors of the Morris Aqueduct*, 47 N. J. L. 311. The common carrier in addition to the general privileges and obligations of public servants is under an absolute liability, except for the act of God or public enemy, for the safe delivery of goods intrusted. *Chevallier* v. *Straham*, 2 Tex. 115. It has been pointed out that this so-called insurer's liability of the common carrier is peculiar to him, and is to be traced to an accidental development of the common law rather than to the nature of his occupation. 11 HARVARD LAW REVIEW, 158–168. While the carrying of messages by electricity bears a striking similarity to the undertaking of the common carrier, it lacks one feature without which the insurer's liability of the latter would never have arisen, namely, a bailment of the thing to be conveyed. It is accordingly well settled that telegraph companies are not under the insurer's liability of common carriers. *Grinnell* v. *Western Union Telegraph Co.*, 113 Mass. 299. It seems preferable therefore to rest the status of telegraph and telephone companies upon the public nature of their occupations rather than upon the theory that they are common carriers, a theory not borne out by the decisions and based upon an analogy in one respect at least defective.

THE TAFF VALE RAILWAY CASE. — A recent decision of the House of Lords immediately involving the legal status of English trade unions